

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

CANDRA CLARK

PLAINTIFF

v.

No. 3:21CV219-RP

WARDEN CHRIS MCALLISTER

SHERIFF KARL GILLARD

CHANCERY COURT JUDGE ROBERT Q. WHITWELL

DEFENDANTS

ORDER OF RECUSAL

For the reasons set forth below, the presiding judge will recuse himself from this case.

Standard for Recusal

The statutes for deciding whether recusal is appropriate for a federal judge are 28 U.S.C.A. § 455, and 28 U.S.C. § 144, which use the same standard, namely, “[W]hether a reasonable person with knowledge of all the facts would conclude that the judge’s impartiality might reasonably be questioned.” *United States v. Hernandez*, 109 F.3d 1450, 1453 (9th Cir.1997) (quoting *United States v. Studley*, 783 F.2d 934, 939 (9th Cir.1986)). However, “the reasonable person standard in the recusal context contemplates a ‘well-informed, thoughtful and objective observer, rather than the hypersensitive, cynical, and suspicious person.’” *Trevino v. Johnson*, 168 F.3d 173, 179 (5th Cir. 1999) (internal citations omitted). In addition, “[A] motion for disqualification ordinarily may not be predicated on the judge's rulings in the instant case” *Phillips v. Joint Legislative Committee on Performance & Expenditure Review*, 637 F.2d 1014, 1020 (5th Cir.1981). A judge’s adverse ruling, even when later reversed or vacated on appeal, does not by itself constitute grounds for recusal. *Garcia v. Woman's Hospital of Texas*, 143 F.3d 227 (5th Cir. 1998). Adverse judicial rulings will only support a claim of bias if they reveal an opinion based on an extrajudicial source – or if they demonstrate such a high degree of

animosity as to make fair judgment impossible. *Liteky v. United States*, 510 U.S. 540, 555, 114 S.Ct. 1147, 127 L.Ed.2d 474 (1994).

In this case, the presiding judge was the complainant in a criminal case in which Ms. Clark was the defendant. As a reasonable person with knowledge of the facts would conclude that the judge's impartiality might be questioned. As such the undersigned **RECUSES** himself from this case. The Clerk of the Court is **DIRECTED** to assign this case to another judge.

SO ORDERED, this, the 24th day of April, 2024.

/s/ Roy Percy
UNITED STATES MAGISTRATE JUDGE